

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

Leila Green Little, et al.,

Plaintiffs,

v.

Llano County, et al.,

Defendants.

Case No. 1:22-cv-00424-RP

**REPLY BRIEF IN SUPPORT OF MOTION FOR EXTENSION OF
TIME TO RESPOND TO THE PLAINTIFFS' MOTION TO COMPEL**

The Court should grant the extension because the defendants are continuing to produce the requested e-mails in their native format consistent with the plaintiffs' requests, and they expect to complete this task by Friday, February 3 (or by Monday, February 6 at the latest). *See* Declaration of Matthew L. Rienstra ¶¶ 4–6. To date, the defendants have already produced and sent to plaintiffs' counsel through Dropbox the following electronically stored information (ESI):

- a. Judge Ron Cunningham's official Llano County emails;
- b. Commissioner Peter Jones's official Llano County emails;
- c. Commissioner Linda Raschke's official Llano County emails;
- d. Commissioner Mike Sandoval's official Llano County emails;
- e. Commissioner Jerry Don Moss's official Llano County emails; and
- f. Llano Library Director Amber Milum's official Llano County emails, including the emails from her prior library email address at Yahoo.

Id. at ¶ 4. The remaining requested e-mails are from Commissioner Moss's hotmail account and the e-mails of Bonnie Wallace, Ronda Schneider, Rochelle Wells, and Gay Baskin, each of which the defendants expect to produce by Friday, February 3, 2023.

See id. at ¶¶ 5–6. Unfortunately, the Llano County offices are currently closed due to a weather event affecting the entire Texas Hill Country, which may push the eventual production of these documents into next week. *See id.* at ¶ 7.

There is no dispute between the parties that the plaintiffs are entitled to these documents, and the delay in production is attributable to the limited resources of Llano County and its county attorney’s office. *See id.* at 8. Counsel for the plaintiffs have overwhelmed a small county and its employees by demanding these all of these e-mails in their native format, which is (understandably) taking time for the county to produce, especially when the plaintiffs are demanding e-mails from private accounts that are not provided or controlled by the county. It is a misuse of a motion to compel for the plaintiffs to demand judicial intervention when the parties agree on the plaintiffs’ entitlement to the documents, but the defendants are struggling to produce those documents given the size of the discovery demand and the limited resources at their disposal.

The plaintiffs insist that the defendants should be forced to respond to the motion to compel regardless, and they accuse the defendants of “conflat[ing] their obligation to produce responsive evidence with their obligation to respond to Plaintiffs’ motion.” Pls.’ Resp., ECF No. 106, at 2. But the *content* of the defendants’ response will be shaped by whether (and to what extent) the defendants can produce the requested e-mails in the native format that the plaintiffs demand, and whether there will be anything left for the court to “compel” after the defendants have finished producing the e-mails in their format—as they expect to do by this Friday (or by next week at the latest).

The Court should also grant the extension because the plaintiffs’ motion to compel rests on outright falsehoods. The motion to compel repeatedly claims that the “individual” defendants, *i.e.*, the defendants other than Llano County, have failed to

respond to the defendants' second set of discovery requests.¹ That is demonstrably false. Each of the individual defendants *did* respond to the interrogatories included in the defendants' second set of discovery requests—and each of them did so by the agreed-upon deadline of November 14, 2022. Those responses were served in an e-mail sent to plaintiffs' counsel at 5:12 p.m. pacific time on November 14, 2022. *See* Exhibits 2–4.

We have confronted plaintiffs' counsel about this and will ask them to withdraw their motion and submit a truthful and corrected version to avoid the need for Rule 11 proceedings. *See* Exhibit 5. The Court should grant the extension to allow the parties time to negotiate a resolution to this.

CONCLUSION

The Court should extend the defendants' deadline for responding to the motion to compel to February 3, 2023.

Respectfully submitted.

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1. *See* Mot. to Compel, ECF No. 92, at 2 (“Llano County’s response to Plaintiffs’ Second Set of RFPs was woefully deficient, and none of the other Defendants have responded to Plaintiffs’ second set of discovery requests at all.”); *id.* at 6 (“The individual Defendants fail to respond to the Second RFPs and Interrogatories on the agreed extended deadline.”); *id.* at 9 (“Plaintiffs served their Second Set of Discovery Requests—including RFPs and Interrogatories on each Defendant—on September 14, 2022. To date, the individual Defendants have not responded or objected to those requests, nor have they produced any responsive documents.”); *id.* at 10 (“[I]ndividual Defendants failed to respond to Plaintiffs’ Second Set of Discovery Requests”).

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CERTIFICATE OF SERVICE

I certify that on January 31, 2023, I served this document through CM/ECF

upon:

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